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DATE: October 4, 2004

MEMORANDUM

TO: Local DES Coordinators

FROM: Jim Anderson, Disaster Recovery Manager 

SUBJECT: New FEMA Policy Number 9523.6
***"Mutual Aid Agreements for Public Assistance
and Fire Management Assistance"***

On September 22, 2004, FEMA updated and replaced their previous policy on Mutual Aid with the attached ***"Mutual Aid Agreements for Public Assistance and Fire Management Assistance"*** policy. The effective date for this policy is August 11, 2004.

This new policy specifies criteria by which FEMA will recognize the eligibility of costs under the Public Assistance Program (Presidential Declarations) and the Fire Management Assistance Program (FEMA Fire Management Assistance Declarations) incurred through mutual aid agreements between applicants and other entities. The policy addresses both written and verbal mutual aid agreements and the eligibility of costs under the Emergency Management Assistance Compact (EMAC).

Listed below are the areas covered and addressed in the new Mutual Aid Policy:

- Pre-Event Written Mutual Aid Agreements
- Post-Event Mutual Aid Agreements
- Force Account Labor Costs
- Eligible Work
- Eligible Applicants
- Reimbursement of Mutual Aid Costs

One statement of caution: "To be eligible for FEMA assistance, the reimbursement provisions of a Mutual Aid Agreement must apply uniformly to both Federal awards and other activities of the governmental unit, and ***NOT BE CONTINGENT*** on a declaration of an emergency, major disaster or fire by the Federal Government".

This "Mutual Aid Policy" will also be followed and used by the State of Montana to determine the eligibility of costs under the State Public Assistance Program for State declarations only.

Attached:

FEMA Policy # 9523.6, ***"Mutual Aid Agreements for Public Assistance and Fire Management Assistance"***, dated September, 22, 2004



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I. TITLE: **Mutual Aid Agreements for Public Assistance and Fire Management Assistance**

II. DATE:

III. PURPOSE:

This policy specifies criteria by which the Federal Emergency Management Agency (FEMA) will recognize the eligibility of costs under the Public Assistance (PA) Program and the Fire Management Assistance Grant (FMAG) Program incurred through mutual aid agreements between applicants and other entities.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters, emergencies, and fire management assistance declarations declared on or after the date of this policy. This policy is intended for personnel involved in the administration of the PA and the FMAG programs.

V. AUTHORITY:

This policy applies to emergency work authorized under Sections 403, 407, 420, and 502, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5206, and the implementing regulations of 44 CFR § 204 and § 206.

VI. BACKGROUND:

Many State, Tribal, and local governments and private nonprofit organizations enter into mutual aid agreements to provide emergency assistance to each other in the event of disasters or emergencies. These agreements often are written, but occasionally are arranged verbally after a disaster or emergency occurs. This policy addresses both written and verbal mutual aid agreements and the eligibility of costs under the Emergency Management Assistance Compact (EMAC).

The National Incident Management System (NIMS) maintains that states should participate in these agreements and should look to establish intrastate agreements that encompass all local jurisdictions. The NIMS Integration Center (NIC) will be responsible for developing a national system of standards and guidelines as described in the NIMS as well as the preparation of guidance to assist agencies in implementing the system. This policy supports the NIMS by



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establishing standard criteria for determining the eligibility of costs incurred through mutual aid agreements.

VII. POLICY:

A. Terms Used in this Policy:

1. *Backfill*. Replacement personnel who perform the regular duties of other personnel while they are performing eligible emergency work under the PA or FMAG programs.
2. *Declared Disaster*. An emergency or major disaster as defined at 44 CFR § 206.2 (a)(9) and (17), respectively.
3. *Declared Fire*. An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster for which the Recovery Division Director has approved a declaration in accordance with the criteria listed in 44 CFR § 204.21.
4. *Emergency Management Assistance Compact (EMAC)*. The interstate mutual aid agreement allows states to assist one another in responding to all kinds of natural and man-made disasters. It is administered by the National Emergency Management Association (NEMA).
5. *Incident Commander*. The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finances of the field response.
6. *Providing Entity*. The entity providing mutual aid assistance to a Requesting Entity pursuant to a local or statewide mutual aid agreement.
7. *Requesting Entity*. An entity that requests mutual aid assistance from a Providing Entity for emergency work resulting from a declared fire, emergency or major disaster within its legal jurisdiction. The requesting entity is eligible to receive FEMA assistance for the eligible mutual aid activities from the providing entities.

B. General:

1. To be eligible for reimbursement by FEMA, the mutual aid assistance must have been requested by a Requesting Entity or Incident Commander; be directly related to a



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Presidentially-declared emergency or major disaster, or a declared fire; used in the performance of eligible work; and the costs must be reasonable.

2. FEMA will not reimburse costs incurred by entities that "self-deploy" (deploy without a request for mutual aid assistance by a Requesting Entity) except to the extent those resources are subsequently used in the performance of eligible work at the request of the Requesting Entity or Incident Commander.

3. The reimbursement provisions of a mutual aid agreement must apply uniformly to both Federal awards and other activities of the governmental unit, and not be contingent on a declaration of an emergency, major disaster, or fire by the Federal government.

4. This policy is applicable to all forms of mutual aid assistance, including agreements between Requesting and Providing Entities, statewide mutual aid agreements, and the mutual aid services provided under the EMAC.

C. Pre-Event Written Mutual Aid Agreements.

FEMA recognizes mutual aid agreements between Requesting and Providing Entities, and statewide mutual aid agreements wherein the State is responsible for administering the claims for reimbursement of Providing Entities. In addition, FEMA recognizes the standard EMAC agreement as a valid form of mutual aid agreement between member states.

1. FEMA encourages parties to have written mutual aid agreements in place prior to a declared fire, emergency, or major disaster.

a. When a pre-event written agreement exists between a Requesting Entity and a Providing Entity, the Providing Entity may be reimbursed through the Requesting Entity. In these circumstances, the Requesting Entity must claim the eligible costs of the Providing Entity, pursuant to the terms and conditions of the mutual aid agreement and the requirements of this policy, on its subgrant application, and agree to disburse the Federal share of funds to the Providing Entity.

b. When a statewide pre-event mutual aid agreement exists that designates the State responsible for administering the reimbursement of mutual aid costs, a Providing Entity may apply, with the prior consent of the Requesting Entity, for reimbursement directly to the Grantee, in accordance with applicable State law and procedure. In such cases the Providing



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Entity must obtain from the Requesting Entity the certification required in section H.(3) of this policy and provide it to the State as part of its reimbursement request.

2. FEMA encourages parties to address the subject of reimbursement in writing in their mutual aid agreements. FEMA will honor the reimbursement provisions in a pre-event agreement to the extent they meet the requirements of this policy.

3. When a pre-event agreement provides for reimbursement, but also provides for an initial period of unpaid assistance, FEMA will pay the eligible costs of assistance after such initial unpaid period.

4. When a pre-event agreement specifies that no reimbursement will be provided for mutual aid assistance, FEMA will not pay for the costs of assistance.

D. Post-Event Mutual Aid Agreements.

1. When the parties do not have a pre-event written mutual aid agreement, or where a written pre-event agreement is silent on reimbursement, the Requesting and Providing Entities may verbally agree on the type and extent of mutual aid resources to be provided in the current event, and on the terms, conditions, and costs of such assistance.

2. Post-event verbal agreements must be documented in writing and executed by an official of each entity with authority to request and provide assistance, and provided to FEMA as a condition of receiving reimbursement. The agreement should be consistent with past practices for mutual-aid between the parties.

E. Force Account Labor Costs.

1. The straight- or regular-time wages or salaries of a Requesting Entity's permanently employed personnel performing or supervising emergency work are not eligible costs, pursuant to 44 CFR § 206.228(a)(4), and § 204.43(c), even when such personnel are reassigned or relocated from their usual work location to provide assistance during an emergency. Overtime costs for such personnel are eligible and may be submitted as part of a subgrant application.

2. The labor force of a Providing Entity will be treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided labor rates are



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reasonable. The labor force of the Providing Entity will not be treated as contract labor if the labor force is employed by the same local or State government as the Requesting Entity.

3. In circumstances where a Providing Entity is also an eligible applicant in its own right, the determination of eligible and ineligible costs will depend on the capacity in which the entity is incurring costs. As stated in paragraphs E.(1) and (2), an applicant's straight-time wages are not eligible costs when the applicant is using its permanently employed personnel for emergency work in its own jurisdiction.

4. Requesting and Providing Entities may not mutually deploy their labor forces to assist each other in such a way as to circumvent the limitations of paragraph E.(1) or (2) of this policy.

5. The straight- or regular-time wages or salaries for backfill personnel incurred by Providing Entities are not eligible for reimbursement. However, the overtime portion of the replacement personnel's salary is considered an additional cost of deploying personnel who perform eligible work and is eligible for reimbursement under this policy.

F. Types of Mutual Aid Work

There are two types of mutual aid work eligible for FEMA assistance: Emergency Work and Grant Management Work. Both are subject to the eligibility requirements of the respective PA and FMAG programs:

1. **Emergency Work.** Mutual aid work provided in the performance of emergency work necessary to meet immediate threats to life, public safety, and improved property, including firefighting activities under the FMAG program, is eligible.

a. Examples of eligible emergency work include:

(i) Search and rescue, sandbagging, emergency medical care, debris removal;

(ii) Reasonable supervision and administration in the receiving State that is directly related to eligible emergency work;

(iii) The cost of transporting equipment and personnel by the Providing Entity to the incident site, subject to the requirements of paragraphs A(2) and (3) of this policy;



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(iv) Costs incurred in the operation of the Incident Command System, such as operations, planning, logistics and administration, provided such costs are directly related to the performance of eligible work on the disaster or fire to which such resources are assigned;

(v) State Emergency Operations Center or Joint Field Office assistance in the receiving State to support emergency assistance;

(vi) Assistance at the National Response Coordination Center (NRCC), and Regional Response Coordination Center (RRCC), if requested by FEMA (labor, per diem and transportation);

(vii) Dispatch operations in the receiving State;

(viii) Donations warehousing and management (eligible only on the approval of the Director of Recovery);

(ix) Firefighting activities; and,

(x) Dissemination of public information authorized under Section 403 of the Act.

b. Examples of mutual aid work that are not eligible, include:

(i) Permanent recovery work;

(ii) Training, exercises, on-the-job training;

(iii) Long-term recovery and mitigation consultation;

(iv) Costs outside the receiving State that are associated with the operations of the EMAC system (except for FEMA facilities noted in paragraph F.(1)(a)(v) and (vi) above);

(v) Costs for staff performing work that is not eligible under the PA or the FMAGP programs;

(vi) Costs of preparing to deploy or "standing-by" [except to the extent allowed in the FMAG program pursuant to 44 CFR § 204.42(e)];



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- (vii) Dispatch operations outside the receiving State;
- (viii) Tracking of EMAC and U.S. Forest Service Incident Cost Accounting and Reporting System (ICARS) resources; and
- (ix) Situation reporting.

2. Grant Management Work. For PA only, work associated with the performance of the Grantee's responsibilities as the grant administrator, as outlined in 44 CFR § 206.202(b). Use of EMAC-provided assistance to perform these tasks is eligible mutual aid work.

G. Eligible Applicants.

1. Only Requesting Entities are eligible applicants for FEMA assistance. With the exception of G.(2), below, a Providing Entity must submit its claim for reimbursement to a Requesting Entity.

2. States may be eligible applicants when statewide mutual aid agreements or compacts authorize the State to administer the costs of mutual aid assistance on behalf of local jurisdictions.

H. Reimbursement of Mutual Aid Costs.

1. Requesting and Providing Entities must keep detailed records of the services requested and received, and provide those records as part of the supporting documentation for a reimbursement request.

2. A request for reimbursement of mutual aid costs must include a copy of the mutual aid agreement - whether pre- or post-event - between the Requesting and Providing Entities.

3. A request for reimbursement of mutual aid costs must include a written and signed certification by the Requesting Entity certifying

a. The types and extent of mutual aid assistance requested and received in the performance of eligible emergency work; and



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b. The labor and equipment rates used to determine the mutual aid cost reimbursement request.

4. FEMA will not reimburse the value of volunteer labor or the value of paid labor that is provided at no cost to the applicant. However:

a. To the extent the Providing Entity is staffed with volunteer labor, the value of the volunteer labor may be credited to the non-Federal cost share of the Requesting Entity's emergency work in accordance with the provisions of Recovery Policy #9525.2, Donated Resources.

b. If a mutual aid agreement provides for an initial period of unpaid assistance or provides for assistance at no cost to the Requesting Entity, the value of the assistance provided at no cost to the Requesting Entity may be credited to the non-Federal cost share of the Requesting Entity's emergency work under the provisions of Recovery Policy #9525.2. Donated Resources.

5. Reimbursement for work beyond emergency assistance, such as permanent repairs, is not eligible for mutual aid assistance.

6. For PA only, reimbursement for equipment provided to a Requesting Entity will be based on FEMA equipment rates, approved State rates or, in the absence of such standard rates, on rates deemed reasonable by FEMA.

7. For FMAG only, reimbursement for equipment provided to a Requesting Entity will be based on 44 CFR § 204.42 (b)(3) and (4).

8. For PA only, reimbursement for damage to equipment used in emergency operations will be based on Recovery Policy #9525.8, Damage to Applicant Owned Equipment.

9. For FMAG only, reimbursement or replacement of equipment damaged or destroyed in the course of eligible firefighting activities will be based on 44 CFR § 204.42 (b)(5), and (6).

10. For PA only, reimbursement for equipment purchased by a subgrantee to support emergency operations will be based on Recovery Policy #9525.12, Disposition of Equipment, Supplies, and Salvaged Materials.



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VIII. ORIGINATING OFFICE: Recovery Division (Public Assistance Branch)

IX. SUPERSESSION: This policy updates and replaces RP9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance, dated September 22, 2004, and the Mutual Aid Policy Clarification Memorandum, dated March 15, 2005.

X. REVIEW DATE: Three years from date of publication.

David Garratt
Acting Director of Recovery
Federal Emergency Management Agency